

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF MONROE

BERNABÉ RIVERA,

Index No.

Plaintiff,

v.

THE DIOCESE OF ROCHESTER; THE CATHOLIC YOUTH ORGANIZATION OF CATHOLIC CHARITIES OF THE DIOCESE OF ROCHESTER; CATHOLIC CHARITIES OF THE DIOCESE OF ROCHESTER; MOST HOLY REDEEMER PARISH; ST. BRIDGET'S CHURCH, a/k/a, ST. BRIDGET'S CHURCH ROCHESTER; ROMAN CATHOLIC PARISH OF ST. FRANCES XAVIER CABRINI, a/k/a, ST. FRANCES XAVIER CABRINI PARISH; and IMMACULATE CONCEPTION/ST. BRIDGET'S CHURCH,

COMPLAINT

JURY TRIAL DEMANDED

Defendants.

Plaintiff Bernabé Rivera, by his attorneys Simmons Hanly Conroy LLC and the Law Offices of Mitchell Garabedian, brings this action against The Diocese of Rochester; The Catholic Youth Organization of Catholic Charities of the Diocese of Rochester; Catholic Charities of the Diocese of Rochester; the Most Holy Redeemer Parish; St. Bridget's Church, also known as St. Bridget's Church Rochester; Roman Catholic Parish of St. Frances Xavier Cabrini, also known as, St. Frances Xavier Cabrini Parish; and Immaculate Conception/St. Bridget's Church and alleges, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

JURISDICTION AND VENUE

1. This Court has personal jurisdiction over the Defendants pursuant to CPLR 301 and 302, in that the Defendants reside in New York.
2. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.

3. Venue for this action is proper in the County of Monroe pursuant to CPLR 503 in that the Defendants reside in this County.

PARTIES

4. Plaintiff Bernabé Rivera ("Plaintiff") is an individual residing in Monroe County, New York.

5. Defendant The Diocese of Rochester is a religious corporation organized pursuant to the Religious Corporations Law, with its principal office at 1150 Buffalo Road, Rochester, New York, 14624, in Monroe County, New York. The Diocese of Rochester is a Roman Catholic diocese. At all relevant times, The Diocese of Rochester created, oversaw, managed, controlled, directed and operated parishes or churches of The Diocese of Rochester. At all relevant times, The Diocese of Rochester oversaw, managed, controlled, and directed priests assigned to work in parishes or churches of the Diocese. At all relevant times, The Diocese of Rochester also created, oversaw, managed, controlled, directed, and operated recreational centers at which minor children would regularly be brought, including, during all relevant times, Catholic Charities of the Diocese of Rochester and The Catholic Youth Organization of Catholic Charities of the Diocese of Rochester.

6. Defendant Most Holy Redeemer Parish, ("Holy Redeemer") was a Roman Catholic Parish within and under the authority of The Diocese of Rochester and apparently was a religious corporation organized pursuant to the Religious Corporations Law with its principal office at 124 Evergreen Street, Rochester, New York 14605, in Monroe County, New York. At all relevant times, The Diocese of Rochester created, oversaw, managed, controlled, directed and operated Holy Redeemer.

7. Defendant Roman Catholic Parish of St. Frances Xavier Cabrini, also known as St. Frances Xavier Cabrini Parish ("St. Frances Xavier Cabrini") is a religious corporation organized pursuant to the Religious Corporations Law with its principal office at 124 Evergreen Street, Rochester, New York 14605, in Monroe County, New York.

As a result of several corporate mergers, Defendant St. Frances Xavier Cabrini is the legal successor to Defendant Holy Redeemer. At relevant times, St. Frances Xavier Cabrini was a Roman Catholic parish within and under the authority of The Diocese of Rochester.

8. Defendant St. Bridget's Church, also known as St. Bridget's Church Rochester ("St. Bridget's") was a religious corporation organized pursuant to the Religious Corporations Law with its principal office formerly at 175 St. Bridget's Dr. Rochester and now at 445 Frederick Douglass Street, Rochester, New York 14608, in Monroe County, New York. At all relevant times, St. Bridget's was a Roman Catholic parish within and under the authority of The Diocese of Rochester. At all relevant times, The Diocese of Rochester created, oversaw, managed, controlled, directed and operated St. Bridget's.

9. Defendant Immaculate Conception/St. Bridget's Church ("Immaculate Conception") is a Roman Catholic Parish within and under the authority of The Diocese of Rochester and apparently a religious corporation organized pursuant to the Religious Corporations Law with its principal office at 445 Frederick Douglass Street, Rochester, New York 14608, in Monroe County, New York. As a result of a corporate merger, Defendant Immaculate Conception is the legal successor to Defendant St. Bridget's.

10. Defendant Catholic Charities of the Diocese of Rochester ("Catholic Charities") is a not-for-profit corporation organized pursuant to New York's Not-for-Profit Corporation Law with its principal office at 1150 Buffalo Road, Rochester, New York, 14624, in Monroe County, New York. At relevant times, Catholic Charities created, oversaw, operated, managed, directed and controlled facilities and activities under the name of, or with the name of, Catholic Youth Organization located at relevant times on Chestnut Street in Rochester, New York. At all relevant times, Catholic Charities was and has been a Roman Catholic diocesan entity within and under the authority of the Diocese of Rochester. At all relevant times, the Diocese of Rochester created, oversaw, managed, controlled, directed and operated Catholic Charities.

11. Defendant The Catholic Youth Organization of Catholic Charities of the Diocese of Rochester (the "CYO, Inc.") is a not-for-profit corporation organized pursuant to New York's Not-for-Profit Corporation Law with its principal office at 1150 Buffalo Road, Rochester, New York, 14624, in Monroe County, New York. At all relevant times, the CYO, Inc. was and has been a Roman Catholic diocesan entity within and under the authority of the Diocese of Rochester. At all relevant times, The Diocese of Rochester created, oversaw, managed, controlled, directed and operated CYO, Inc. Defendant CYO, Inc. is the legal successor to Defendant Catholic Charities.

FACTS COMMON TO ALL CLAIMS

12. In or about 1969, Plaintiff and his family were parishioners of and attended Holy Redeemer Church in Rochester, New York, when he was a child.

13. During the times relevant to the allegations set forth herein, Monsignor Joseph Vogt ("Monsignor Vogt") was assigned by Defendant Diocese of Rochester to be the pastor of Holy Redeemer in Rochester, New York, where Plaintiff's family were parishioners.

14. During the times relevant to the allegations set forth herein, Father Francis Vogt ("Father Vogt") was assigned by Defendant Diocese of Rochester to be the pastor of St. Bridget's. Monsignor Vogt and Father Vogt were brothers.

15. Through his positions at, within, or for the Defendants, and with the assistance of Monsignor Vogt, Father Vogt was put in direct contact with members of the Plaintiff's family, including Plaintiff, a minor parishioner of The Diocese of Rochester.

16. In or about 1969, when Plaintiff was approximately five years old, Father Vogt and Monsignor Vogt rented their family home in Rochester, New York, to the Plaintiff's family. In or about 1972, Father Vogt and Monsignor Vogt sold their family home in Rochester, New York, to the Plaintiff's family.

17. In or about 1969 through 1971 Defendant Catholic Charities operated, oversaw, managed, directed and controlled facilities and activities under the name of, or

with the name of, Catholic Youth Organization, including a center with a swimming pool located at relevant times at or near 50 Chestnut Street in Rochester, New York.

18. From 1969, when Plaintiff was approximately five years old, to approximately 1971, when Plaintiff was approximately six or seven years old, Father Vogt would take Plaintiff to the Catholic Charities Chestnut Street Catholic Youth Organization facility to swim.

19. Father Vogt used such encounters with the Plaintiff at the Catholic Charities Chestnut Street Catholic Youth Organization facility, when Plaintiff was approximately five to approximately seven years of age, to sexually assault, sexually abuse, and/or have sexual contact with the Plaintiff. Father Vogt sexually assaulted, abused, and/or had sexual contact with the Plaintiff at the Catholic Charities Chestnut Street Catholic Youth Organization facility and at Plaintiff's home on multiple occasions from approximately 1969 through approximately 1971 in violation of the laws of the State of New York.

Defendants' Responsibility for the Abuse Committed by Father Vogt

20. At all times material hereto, Father Vogt was under the management, supervision, employ, direction and/or control of Defendants Diocese of Rochester, St. Bridget's, and Catholic Charities. At all times material after August 23, 1973, Father Vogt was also under the management, supervision, employ, direction and/or control of CYO, Inc.

21. Father Vogt would not have had unfettered contact with the then very young Plaintiff but for the conduct of Monsignor Vogt, who was under the management, supervision, employ, direction and/or control of Defendants Diocese of Rochester and Holy Redeemer.

22. Monsignor Vogt knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Father Vogt, who sexually abused Plaintiff, at the time when Monsignor Vogt

assisted Father Vogt in having unfettered contact with Plaintiff, a minor parishioner of the parish for which Monsignor Vogt was the Pastor.

23. Defendants Diocese of Rochester and St. Bridget's had the duty to reasonably manage, supervise, control and/or direct priests who served at St. Bridget's, and specifically, had a duty not to aid pedophiles such as Father Vogt by assigning, maintaining, and/or appointing them to positions with access to minors.

24. Defendants Diocese of Rochester and Holy Redeemer had the duty to reasonably manage, supervise, control and/or direct priests who served at Holy Redeemer, and specifically, had a duty not to authorize, encourage or allow priests to aid pedophiles such as Father Vogt to have unfettered access to minors.

25. Defendants knew and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Father Vogt, who sexually abused Plaintiff.

26. Defendant Diocese of Rochester had the duty to reasonably manage, supervise, control and/or direct priests who utilized the Catholic Charities Catholic Youth Organization facilities, and specifically, had a duty not to aid pedophiles such as Father Vogt by allowing them to have unfettered access to minors.

27. Defendant Catholic Charities had a duty to the Plaintiff to supervise minors during the times that children used their facilities to ensure that pedophiles did not use the Catholic Charities Catholic Youth Organization facilities as a place to groom and assault vulnerable children. Defendant Catholic Charities knew or should have known that Father Vogt used their facilities to sexually abuse minor children, including the Plaintiff.

Consequences of the Abuse

28. Plaintiff suffered personal, physical, and psychological injuries and damages as a result of Father Vogt's actions, as well as other damages related thereto, as a result of his childhood sexual abuse.

29. As a direct result of the Defendants' conduct described herein, Plaintiff suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, and physical manifestations of emotional distress. Plaintiff was prevented from obtaining the full enjoyment of life; has incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and has incurred and will continue to incur loss of income and/or loss of earning capacity. As a victim of Father Vogt's sexual abuse, Plaintiff is unable at this time to fully describe all of the details of that abuse and the extent of the harm he suffered as a result.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Negligent Hiring/Retention/Supervision/Direction

30. Plaintiff repeats and re-alleges each and every allegation set forth in paragraphs 1 through 29 as if fully set forth herein.

31. Defendants owed a duty of care to all minor persons, including Plaintiff, who were likely to come within the influence or supervision of Father Vogt in his role as priest, counselor, trustee, director, officer, employee, agent, servant and/or volunteer, to insure that Father Vogt did not use his assigned position to injure minors by sexual assault, abuse, or sexual contact in violation of the laws of the State of New York.

32. Defendants Diocese of Rochester, St. Bridget's, and Catholic Charities at all relevant times held the Catholic Charities Chestnut Street Catholic Youth Organization facility out to be a safe place for recreation and engaging in youth activities. Defendants Diocese of Rochester, St. Bridget's, and Catholic Charities entered into an express and/or implied duty to provide a reasonably safe environment for Plaintiff and assumed the duty to protect and care for him.

33. Father Vogt sexually assaulted, sexually abused, and/or had sexual contact with Plaintiff at the Catholic Charities Chestnut Street Catholic Youth Organization facility and at Plaintiff's home.

34. Defendants Diocese of Rochester, St. Bridget's, and Catholic Charities negligently hired, retained, directed, and supervised Father Vogt, though they knew or should have known that Father Vogt posed a threat of sexual abuse to minors.

35. Defendants Diocese of Rochester, St. Bridget's, and Catholic Charities knew or should have known of Father Vogt's propensity for the conduct which caused Plaintiff's injuries prior to, or at the time of, the injuries' occurrence.

36. Defendants Diocese of Rochester, St. Bridget's, and Catholic Charities were negligent in failing to properly supervise Father Vogt.

37. The sexual abuse of children by adults, including priests, is a foreseeable result of negligence.

38. At all times material hereto, Defendants' actions were willful, wanton, malicious, reckless, and/or outrageous in their disregard for the rights and safety of Plaintiff.

39. As a direct and proximate result, Plaintiff has suffered and will continue to suffer the injuries described herein.

40. Liabilities of St. Bridget's were transferred to, or assumed by, Immaculate Conception. As a result, Immaculate Conception is liable to the Plaintiff for the damages caused by St. Bridget's stated in this cause of action.

41. Liabilities of Catholic Charities resulting from conduct at Catholic Charities Chestnut Street Catholic Youth Organization facility were transferred to, or assumed by, CYO, Inc. As a result, CYO, Inc. is liable to the Plaintiff for the damages caused by Catholic Charities stated in this cause of action.

42. By reason of the foregoing, the Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SECOND CAUSE OF ACTION
Negligence/Gross Negligence

43. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 29 as if fully set forth herein.

44. Defendants Diocese of Rochester, Holy Redeemer, St. Bridget's, and Catholic Charities knew, or were negligent in not knowing, that Father Vogt posed a threat of sexual abuse to children.

45. The acts of Father Vogt described hereinabove were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his respective employment, appointment, assignment, and/or agency with Defendants Diocese of Rochester, Holy Redeemer, St. Bridget's, and Catholic Charities.

46. Defendants owed Plaintiff, a minor at the relevant times of abuse, a duty to protect him from Father Vogt's sexual deviancy and the consequential damages, both prior to and/or subsequent to Father Vogt's misconduct.

47. Defendants' willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or proximately in the damage set forth herein at length.

48. Defendants Diocese of Rochester, Holy Redeemer, St. Bridget's, and Catholic Charities:

- a. gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons or instrumentalities in work involving risk of harm to others;
- b. failed adequately to supervise the activities of Father Vogt;
- c. failed adequately to supervise Catholic Youth Organization recreational activities at the Catholic Charities Chestnut Street Catholic Youth Organization facility ;
- d. permitted, and/or intentionally failed and/or neglected to prevent,

negligent and/or grossly negligent conduct and/or allowed other tortious conduct by persons, whether or not their servants and/or agents and/or employees, upon premises or with instrumentalities under their control; and

- e. allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint to occur.

49. At all times material hereto, with regard to the allegations contained herein, Father Vogt was under the supervision, employ, direction and/or control of Defendants Diocese of Rochester, St. Bridget's, and Catholic Charities.

50. At all times material hereto, with regard to the allegations contained herein, Monsignor Vogt was under the supervision, employ, direction, and/or control of Defendants Diocese of Rochester and Holy Redeemer.

51. At all times material hereto, Defendants Diocese of Rochester's, St. Bridget's, Holy Redeemer's, and Catholic Charities' actions were willful, wanton, malicious, reckless, and outrageous in their disregard for the rights and safety of Plaintiff, which amounted to conduct equivalent to criminality.

52. As a direct and/or indirect result of said conduct, Plaintiff has suffered the injuries and damages described herein.

53. Liabilities of Holy Redeemer were transferred to, or assumed by, St. Frances Xavier Cabrini. As a result, St. Frances Xavier Cabrini is liable to the Plaintiff for the damages caused by Holy Redeemer stated in this cause of action.

54. Liabilities of St. Bridget's were transferred to, or assumed by, Immaculate Conception. As a result, Immaculate Conception is liable to the Plaintiff for the damages caused by St. Bridget's stated in this cause of action.

55. Liabilities of Catholic Charities resulting from conduct at Catholic Charities Chestnut Street Catholic Youth Organization facility were transferred to, or assumed by, CYO, Inc. As a result, CYO, Inc. is liable to the Plaintiff for the damages

caused by Catholic Charities stated in this cause of action.

56. By reason of the foregoing, the Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

THIRD CAUSE OF ACTION

Breach of Non-Delegable Duty

57. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 29 as if fully set forth herein.

58. Plaintiff, when he was a minor, was placed in the care and supervision of the Defendants Diocese of Rochester, St. Bridget's, Holy Redeemer, and Catholic Charities for the purposes of, *inter alia*, providing Plaintiff with a safe environment in which to participate in educational, youth and recreational activities. There existed a non-delegable duty of trust between Plaintiff and the Defendants.

59. Plaintiff was a vulnerable child when placed within the care of Defendants Diocese of Rochester, St. Bridget's, Holy Redeemer, Catholic Charities and the CYO.

60. As a consequence, Defendants Diocese of Rochester, St. Bridget's, Holy Redeemer, and Catholic Charities were in the best position to prevent Plaintiff's abuse, to learn of Father Vogt's repeated sexual abuse of Plaintiff, Monsignor Vogt's role in facilitating the abuse, and to stop it.

61. By virtue of the fact that Plaintiff was sexually abused as a minor child entrusted to the care of the Defendants Diocese of Rochester, St. Bridget's, Holy Redeemer, and Catholic Charities, Defendants breached their non-delegable duty to Plaintiff.

62. At all times material hereto Father Vogt was under the supervision, employ, direction and/or control of the Defendants Diocese of Rochester, St. Bridget's, and Catholic Charities.

63. At all times material hereto Monsignor Vogt was under the supervision,

employ, direction, and/or control of the Defendants Diocese of Rochester and Holy Redeemer.

64. As a direct result of said conduct, Plaintiff has suffered injuries and damages described herein.

65. Liabilities of St. Bridget's were transferred to, or assumed by, Immaculate Conception. As a result, Immaculate Conception is liable to the Plaintiff for the damages caused by St. Bridget's stated in this cause of action.

66. Liabilities of Holy Redeemer were transferred to, or assumed by, St. Frances Xavier Cabrini. As a result, St. Frances Xavier Cabrini is liable to the Plaintiff for the damages caused by Holy Redeemer stated in this cause of action.

67. Liabilities of Catholic Charities resulting from conduct at Catholic Charities Chestnut Street Catholic Youth Organization facility were transferred to, or assumed by, CYO, Inc. As a result, CYO, Inc. is liable to the Plaintiff for the damages caused by Catholic Charities stated in this cause of action.

68. By reason of the foregoing, the Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

FOURTH CAUSE OF ACTION

Breach of Fiduciary Duty

69. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 29 as if fully set forth herein.

70. There exists a fiduciary relationship of trust, confidence, and reliance between Plaintiff and Defendants Diocese of Rochester, Holy Redeemer, St. Bridget's, and Catholic Charities. This relationship is based on the entrustment of the Plaintiff while he was a minor child to the care and supervision of the Defendants Diocese of Rochester, Holy Redeemer, St. Bridget's, and Catholic Charities. This entrustment of the Plaintiff to the care and supervision of the Defendants, while the Plaintiff was a minor child, required

the Defendants to assume a fiduciary relationship and to act in the best interests of the Plaintiff, as well as to protect him while he was a minor and vulnerable child.

71. Pursuant to their fiduciary relationship, Defendants Diocese of Rochester, Holy Redeemer, St. Bridget's, and Catholic Charities were entrusted with the well-being, care, and safety of Plaintiff.

72. Pursuant to their fiduciary relationship, Defendants Diocese of Rochester, Holy Redeemer, St. Bridget's, and Catholic Charities assumed a duty to act in the best interests of Plaintiff.

73. Defendants Diocese of Rochester, Holy Redeemer, St. Bridget's, and Catholic Charities breached their fiduciary duty to Plaintiff.

74. At all times material hereto, Defendants Diocese of Rochester's, Holy Redeemer's, St. Bridget's', and Catholic Charities' actions and/or inactions were willful, wanton, malicious, reckless, and outrageous in their disregard for the rights and safety of Plaintiff.

75. As a direct result of said conduct, Plaintiff has suffered the injuries and damages described herein.

76. Liabilities of Holy Redeemer were transferred to, or assumed by, St. Frances Xavier Cabrini. As a result, St. Frances Xavier Cabrini is liable to the Plaintiff for the damages caused by Holy Redeemer stated in this cause of action.

77. Liabilities of St. Bridget's were transferred to, or assumed by, Defendant Immaculate Conception. As a result, Immaculate Conception is liable to the Plaintiff for the damages caused by St. Bridget's stated in this cause of action.

78. Liabilities of Catholic Charities resulting from conduct at Catholic Charities Chestnut Street Catholic Youth Organization facility were transferred to, or assumed by, CYO, Inc. As a result, CYO, Inc. is liable to the Plaintiff for the damages caused by Catholic Charities stated in this cause of action.

79. By reason of the foregoing, the Defendants are liable to the Plaintiff, jointly,

severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

FIFTH CAUSE OF ACTION

Negligent Infliction of Emotional Distress

80. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 29 as if fully set forth herein.

81. As described above, the actions of Defendants Diocese of Rochester, St. Bridget's, Holy Redeemer, and Catholic Charities, their predecessors and/or successors, agents, servants, and/or employees were conducted in a negligent and/or grossly negligent manner.

82. Defendants Diocese of Rochester's, St. Bridget's, Holy Redeemer's, and Catholic Charities' actions endangered Plaintiff's safety and caused him to fear for his own safety.

83. As a direct and proximate result of Defendants' actions, which included but were not limited to negligent and/or grossly negligent conduct, Plaintiff suffered the severe injuries and damages described herein, including but not limited to, mental and emotional distress.

84. Liabilities of St. Bridget's were transferred to, or assumed by, Defendant Immaculate Conception. As a result, Immaculate Conception is liable to the Plaintiff for the damages caused by St. Bridget's stated in this cause of action.

85. Liabilities of Holy Redeemer were transferred to, or assumed by, St. Frances Xavier Cabrini. As a result, St. Frances Xavier Cabrini is liable to the Plaintiff for the damages caused by Holy Redeemer stated in this cause of action.

86. Liabilities of Catholic Charities resulting from conduct at Catholic Charities Chestnut Street Catholic Youth Organization facility were transferred to, or assumed by, CYO, Inc. As a result, CYO, Inc. is liable to the Plaintiff for the damages caused by Catholic Charities stated in this cause of action.

87. By reason of the foregoing, the Defendants are liable to the Plaintiff, jointly, severally and/or in the alternative liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SIXTH CAUSE OF ACTION

Breach of Duty *in Loco Parentis*

88. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 29 as if fully set forth herein.

89. While he was a minor, Plaintiff was entrusted by his parents to the control of the Defendants Diocese of Rochester, St. Bridget's, Holy Redeemer, and Catholic Charities for the purposes of *inter alia*, providing Plaintiff with appropriate guidance and an opportunity to enjoy educational, youth and recreational activities under responsible adult supervision. During the times that Plaintiff was at the Catholic Charities Chestnut Street Catholic Youth Organization facility, he was under the supervision and control of Defendants Diocese of Rochester, St. Bridget's, and Catholic Charities. During the times that Plaintiff was a parishioner at Holy Redeemer, he was under the supervision and control of Defendants Diocese of Rochester and Holy Redeemer. These Defendants owe - and owed -- a duty to children entrusted to them to act *in loco parentis* and to prevent foreseeable injuries.

90. Defendants Diocese of Rochester, St. Bridget's, Holy Redeemer, and Catholic Charities breached their duty to act *in loco parentis*.

91. At all times material hereto Defendants Diocese of Rochester's, St. Bridget's', Holy Redeemer's, and Catholic Charities' actions were willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in their disregard for the rights and safety of Plaintiff.

92. As a direct result of Defendants Diocese of Rochester's, St. Bridget's', Holy Redeemer's, and Catholic Charities' conduct, Plaintiff has suffered the injuries and damages described herein.

93. Liabilities of St. Bridget's were transferred to, or assumed by, Defendant Immaculate Conception. As a result, Immaculate Conception is liable to the Plaintiff for the damages caused by St. Bridget's stated in this cause of action.

94. Liabilities of Holy Redeemer were transferred to, or assumed by, St. Frances Xavier Cabrini. As a result, St. Frances Xavier Cabrini is liable to the Plaintiff for the damages caused by Holy Redeemer stated in this cause of action.

95. Liabilities of Catholic Charities resulting from conduct at Catholic Charities Chestnut Street Catholic Youth Organization facility were transferred to, or assumed by, CYO, Inc. As a result, CYO, Inc. is liable to the Plaintiff for the damages caused by Catholic Charities stated in this cause of action.

96. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

SEVENTH CAUSE OF ACTION

Breach of Statutory Duty to Report Abuse under Soc. Serv. Law §§ 413, 420

97. Plaintiff repeats and realleges each and every allegation set forth in paragraphs 1 through 29 as if fully set forth herein.

98. Pursuant to N.Y. Soc. Serv. Law §§ 413 and 420, Diocese of Rochester, St. Bridget's, Holy Redeemer, and Catholic Charities had a statutorily imposed duty to report reasonable suspicion of abuse of children in their care.

99. Diocese of Rochester, St. Bridget's, Holy Redeemer, and Catholic Charities breached that duty by knowingly and willfully failing to report reasonable suspicion of abuse by Father Vogt of children in their care.

100. As a direct and/or indirect result of said conduct, Plaintiff has suffered injuries and damages described herein.

101. Liabilities of Holy Redeemer were transferred to, or assumed by, St. Frances Xavier Cabrini. As a result, St. Frances Xavier Cabrini is liable to the Plaintiff for

the damages caused by Holy Redeemer stated in this cause of action.

102. Liabilities of St. Bridget's were transferred to, or assumed by, Defendant Immaculate Conception. As a result, Immaculate Conception is liable to the Plaintiff for the damages caused by St. Bridget's stated in this cause of action.

103. Liabilities of Catholic Charities resulting from conduct at Catholic Charities Chestnut Street Catholic Youth Organization facility were transferred to, or assumed by, CYO, Inc. As a result, CYO, Inc. is liable to the Plaintiff for the damages caused by Catholic Charities stated in this cause of action.

104. By reason of the foregoing, Defendants, jointly, severally and/or in the alternative, are liable to Plaintiff for compensatory damages and for punitive damages together with interest and costs.

WHEREFORE Plaintiff demands judgment against the Defendants on each cause of action as follows:

- A. Awarding compensatory damages in an amount to be proved at trial, but in any event in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding prejudgment interest to the extent permitted by law;
- D. Awarding costs and fees of this action, including attorneys' fees, to the extent permitted by law;
- E. Awarding such other and further relief as to this Court may seem just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury on all issues so triable.

Dated: June 10, 2019
New York, New York

Respectfully Submitted,

/s/ Paul J. Hanly, Jr.
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